

Message Text

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UNCLAS STUTTGART 0804

E.O. 11652: N/A
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SUBJECT: CONTROVERSIAL DECISION OF MANNHEIM COURT RE NEO-NAZI
PARTY/NPD

1. SUMMARY: TWO DECISIONS OF BADEN-WUERTTEMBERG ADMINISTRATIVE COURT AT MANNHEIM ON EMPLOYMENT RIGHTS OF NPD MEMBERS SEPARATED FROM CIVIL SERVICE JOBS FOR THEIR POLITICAL BELIEFS HAVE GENERATED SOME CONTROVERSY. COURT HAS BEEN CRITICIZED FOR APPLYING AN ALLEGED DOUBLE STANDARD IN NOT RULING THAT NPD, LIKE GERMAN COMMUNIST PARTY, PURSUES - AS A PARTY - UNCONSTITUTIONAL AIMS AND ITS MEMBERS TOO SHOULD BE BARRED FROM HOLDING CIVIL SERVICE POSTS. END SUMMARY.

2. TWO DECISIONS TAKEN BY THE ADMINISTRATIVE COURT (VERWALTUNGSGERICHT) AT MANNHEIM LAST FEBRUARY BUT SERVED AND THUS MADE PUBLIC ONLY ON APRIL 10 HAVE GENERATED SOME PUBLICITY IN UNCLASSIFIED

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BADEN-WUERTTEMBERG AND ALSO IN THE NATIONAL PRESS. BOTH DECISIONS RELATE TO THE QUESTION OF MEMBERSHIP IN AND THE STATUS OF THE NEO-NAZI NATIONAL DEMOCRATIC PARTY (NPD).

3. IN ONE DECISION, THE COURT RULED THAT THE BADEN-WUERTTEMBERG MINISTRY OF CULTURE HAD THE RIGHT TO DISMISS ROLF KOSIEK, A FORMER NPD LANDTAG DEPUTY, FROM HIS POSITION AS TEACHER AT THE TECHNICAL

ACADEMY IN NUERTINGEN BECAUSE OF CONSIDERABLE DOUBT OF HIS LOYALTY TOWARDS THE CONSTITUTION. IN THE SECOND DECISION, THE COURT RULED DIFFERENTLY: TILMAN LEIDIG, A SECONDARY SCHOOL TEACHER AND CIVIL SERVICE PROBATIONER, WHO HAS BEEN A MEMBER OF THE NPD SINCE 1966, SHOULD BE RE-INSTATED IN THE CIVIL SERVICE AND BE RE-EMPLOYED BY THE BADEN-WUERTTEMBERG MINISTRY OF CULTURE. BOTH DECISIONS ARE SUBJECT TO APPEAL TO THE FEDERAL ADMINISTRATIVE COURT AT BERLIN.

4. ACCORDING TO THE PRESS, THE MANNHEIM COURT BASED ITS DECISIONS ON A RULING OF THE FEDERAL CONSTITUTIONAL COURT CONCERNING WHAT CONSTITUTES UNCONSTITUTIONAL POLITICAL PARTIES UNDER SECTION 21 OF THE BASIC LAW. THE ADMINISTRATIVE COURT CONSIDERED THAT THE NPD DOES INDEED HAVE A "QUESTIONABLE ATTITUDE" TOWARDS DEMOCRATIC PRINCIPLES, BASED ON NUMEROUS PUBLIC STATEMENTS MADE BY THE NPD AND ITS MEMBERS. HOWEVER, DESPITE THE NPD'S GLORIFICATION OF THE THIRD REICH, THE MANNHEIM COURT SAW "NO CONCLUSIVE SIGNS" OF AN UNCONSTITUTIONAL AIM ON THE PART OF THE NPD.

5. THE COURT WAS SAID TO BE SATISFIED THAT THE NPD DOES INDEED QUESTION THE HIGHEST VALUES OF THE CONSTITUTION BY TOLERATING ATTITUDES BY ITS MEMBERSHIP THAT GO AGAINST DEMOCRATIC PRINCIPLES. HOWEVER, WHILE THE GERMAN COMMUNIST PARTY DEMANDED OF ITS MEMBERS PARTICIPATION IN THE ACTIVITY OF PARTY GROUPS AND ACTIVE SUPPORT OF PARTY OBJECTIVES, THE COURT CONSIDERED THERE WAS A FUNDAMENTAL DIFFERENCE IN THAT THE NPD DEMANDED FROM ITS MEMBERS

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ONLY ACKNOWLEDGMENT OF THE PARTY'S AIMS AND PAYMENT OF DUES AND NOTHING FURTHER AS A SPECIFIC OBLIGATION OF PARTY MEMBERSHIP. SPECIFICALLY, THE NPD DID NOT, AS A PARTY, HAVE A DECLARED AIM OF COMBATTING PUBLIC ORDER.

6. THE COURT'S DECISION HAS COME UNDER WIDESPREAD CRITICISM IN BADEN-WUERTTEMBERG FOR ADMITTING WHAT IS ALLEGED TO BE A DOUBLE STANDARD AS BETWEEN THE NPD AND THE COMMUNIST PARTY AND TOLERATING THE EXTREME RIGHT-WING MOVEMENT EXEMPLIFIED BY THE NPD. NPD MEMBERSHIP

SEEMS NOT NECESSARILY TO BE A BAR TO HOLDING CIVIL SERVICE JOBS FROM WHICH COMMUNIST PARTY MEMBERS ARE EFFECTIVELY EXCLUDED. THE CHAIRMAN OF THE BADEN-WUERTTEMBERG FEDERATION OF GERMAN TRADE UNIONS, LOTHAR ZIMMERMANN, ACCUSED THE COURT OF USING DIFFERENT STANDARDS IN JUDGING POLITICAL RADICALISM. SPD LAND CHAIRMAN EPPLER SAID IT WOULD BE INTOLERABLE IF THE "ONE-EYED FEELING FOR DEMOCRACY OF A JUDGES' SENATE" IN MANNHEIM SHOULD BECOME THE LEGAL PRECEDENT FOR THE WHOLE FRG. MILLER

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